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HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 1043 of 1988

South Eastern Coalfields Limited

-Versus-

Presiding Officer, C.G.I.T. Jabalpur and others

Post for order on 4th January, 2006.

Sd/-
Satish K. Agnihotri
Judge
3.1.2006

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 1043 of 1988

Petitioner		South Eastern Coalfields Limited, Through, General Manager, SECL, Korba.
	Versus	
Respondents	1.	Presiding Officer, Central Government Industrial Tribunal, Jabalpur.
	2.	Chhattisgarh Khadan Karkhana Mazdoor Union, Bankimongra, District Bilaspur (C.G.).
	3.	Union of India, Through: Secretary, Ministry of Labour, Govt. of India, New Delhi.

Single Bench : Hon'ble Mr. Justice **Satish K. Agnihotri, J.**

Mr. P. S. Koshy, Advocate for the petitioner.

Miss Sharmila Singhai, Advocate for the Respondent No.2.

ORDER

(4th January, 2006)

The following order of the Court was passed by **Satish K. Agnihotri J.**

1. The present petition filed under Article 226/227 of the Constitution of India filed by the petitioner seeks quashing of the notification dated 12.7.1985 (Annexure – F) issued by the Central Government and the award dated 12.10.1987 (Annexure – I) passed by the Central Government Industrial Tribunal, Jabalpur (for short 'CGIT') in CGIT/LC/(R)/(59)/ of 1985.

2. The undisputed facts are that the petitioner, South Eastern Coal Fields Ltd. is a company registered under the Companies Act and came into existence on 1.11.1986. Prior to that it was a part of another company called Western Coal Fields Ltd. with its headquarters at Nagpur. Mud pellets (Gotas) are used to reduce the effect and impact of the blast of dynamite used in mines. Initially this

mud pellets (gotas) were purchased by the management or persons employed for preparing the same.

3. The CGIT, Jabalpur, in an application filed under Section 33-C (2) of the Industrial Disputes Act, 1947 (for short 'I.D.A.') filed by one Smt. Shankar Bai and 9 others, decided on 20.8.1979 that the Gotamakers are entitled to wage group-I given to piece rated workers. Some differences arose while implementing the said order of the CGIT. The dispute led to the mutual settlement between the Union and the Management dated 20.1.1981 (Annexure-A) in conciliation. The terms of settlement were as under:-

"Terms of Settlement:

1. *Agreed that all persons barring one, namely Jhingal who has died, shall be taken on Company's roll with effect from 1.1.1981 subject to their passing the medical fitness test.*
2. *The management would provide job of clay-cartridge makers to all of them in the first instance, but in case any one of them is found surplus to their requirement in this regard, he or she will be provided alternative job.*
3. *Agreed that work load of these clay cartridge makers shall be 1000 cartridges of 9"x1½" per workman for 8 Hours work for which they shall be paid group I wages along with other benefits as per National Coal Wage Agreement-II. It is further agreed that if out put of any one falls short of the work norm as fixed above, the wages will be reduced proportionately. Likewise, if the output is more than what has been prescribed as minimum the wages will be proportionately increased.*
4. *Agreed that the management shall provide the required material, i.e. Clay/sand, water and coal at the workplace and the cartridge will be loaded/supplied by the workers as per existing practices.*
5. *While wages of these 9 regularised persons named below will be regulated as per this settlement with effect from 1.1.1981, they or their legal heir will be paid a sum of Rs. 25,000/- (Rupees Twenty five thousand only) to be distributed equally, within one month in full and final settlement of all their*

claims, for the period up to 31.12.80. Neither the union nor the persons concerned in the dispute shall have any other claim against the management towards arrears of wages or any other account up to 31.12.1980 and they accept the amount in full and final satisfaction of all their claims against the management prior to 1.1.1981.

Name of the persons.

1. *Shankar Bai W/o Bhaktu.*
2. *Rameswar W/o Deo Prasad.*
3. *Budhwara Bai W/o Nandlal.*
4. *Ram Mat Bai W/o Itwar.*
5. *Mangrial S/o Santosh.*
6. *Teja Bai W/o Sitaram.*
7. *Daras Bai W/o Ramadhin.*
8. *Sohan Bai W/o Dharnidhar.*
9. *Agarsa Bai W/o Puniram.*

4. A dispute with regard to the interpretation of Item-4 of the settlement dated 20.1.1981 arose between the parties, as according to the workers, the management was not complying with the provisions of the settlement. The dispute was accordingly referred to the Central Government. The Central Govt. vide order dated 12th July, 1985 (Annexure F) in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 referred the said dispute for adjudication to the C.G.I.T., Jabalpur, as under:-

"Whether according to the term of item No.4 of the settlement dated 20.1.1981 between the management of Western Coalfields Ltd., Korba and the Chhattisgarh Khadan Karkhana Mazdoor Union, Bankimongra signed before the RLC(C), Jabalpur, the management has to provide earth, water etc. at the workspot ? If so, to what relief the workmen Gotamakers is entitled to ?"

The respondent No.2 filed statement of case before CGIT, accordingly on 27.7.1985.

5. The C.G.I.T. after having considered and examined the case of both the parties, answered the reference as under:-

"That according to item No.4 of the settlement dated 21.1.1981 between the management of Western Coalfields Limited and the Chhattisgarh Karkhana Khadan Mazdoor Union, Bankimongra signed before the Regional Labour Commissioner (Central), Jabalpur the management has provided clay (not earth), water etc. at the work spot. Management have not done so on their own interpretation which is not correct. Therefore, the workmen are entitled to three hours overtime as per day wages calculated on the basis of the payment made to them per 8 working hours a day. This amount is to be paid to them with effect from 20.1.1981 till they are provided the clay, water etc. on the work site. Management will further pay Rs. 50/- to each workmen as costs of these proceedings."

6. Being aggrieved, the petitioner filed this petition praying for quashing of the notification dated 12.7.1985 (Annexure – F) issued by the Central Government and the award dated 12.10.1987 (Annexure – I) passed by the CGIT, Jabalpur.

7. Shri P. S. Koshy, learned counsel appearing for the petitioner submitted that the findings of the Tribunal were in contravention to the reference made by the Central Government. The conclusions reached by the Tribunal were contrary to the findings recorded by the Tribunal. Pellets/Gotas making workers are generally provided the work place and necessary articles i.e. water, coal, clay etc. The quality of pellets/gotas deteriorated and the workers were repeatedly informed that the quality as well as quantity was decreasing day by day. It was further contented that the management had been providing the required material i.e. clay, sand, water and coal at the work place to the workers, as per terms of settlement dated 20.1.1981.

8. It was next contended that the reference by the Central Govt. to the C.G.I.T. was bad because under section 36-A of the I.D.A. if any doubt or difficulty arise as to the interpretation of any provision or word of provisions the matter may be referred to the Labour Court only for the interpretation of the provisions. The reference in impugned award, does not require interpretation but requires adjudication of the dispute which cannot be done under the provisions of Section 36-A of the I.D.A. The reference was not industrial dispute and as such the Tribunal ought to have confined to the interpretation only, not granting any relief to the workers. Learned counsel relied on decision of Supreme Court in Delhi Cloth and General Mills Co. Vs. Their Workmen[1].

9. Learned counsel for the petitioner further submitted that the requirement under the said settlement was to provide coal/sand at the workplace, which clearly meant that the management was either required to provide sand or clay to the workers at their place. The finding of the Tribunal to the effect that the management was required to provide clay/sand at the work place was contrary to the terms of the agreement. The Tribunal's direction to pay three hours overtime as the workers spent four hours in excess to the normal working hours in order to make clay is without any basis and contrary to the terms of the settlement. Clay is nothing but stiff viscous earth. The workers were provided earth which is clay when earth is tenacious and impervious in very fine articles.

10. Miss Sharmila Singhai, learned counsel appearing for the Respondent No.2, per contra, submitted that this Court in exercise of its supervisory jurisdiction would not entertain this writ petition to upset

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[1](1967 II LLJ 423)

the findings of facts recorded by the Tribunal. Learned counsel further submitted that C.G.I.T. has examined in detail evidences and documents produced by the management as well as workers Union/Respondent No.2 and had rightly come to the conclusion that the management was not supplying clay to the workers on their place of work as required under the terms of the settlement. Clay is the basic raw material for making pellets/gotas. For want of supply of clay, the workers had to spend more than four hours in preparing the clay as a result, production of pellets/gotas reduced. Under the terms of the settlement the workers were required to produce 1000 cartridge of 9" x 1½" per workman for 8 hours work but due to preparation of clay the workmen could not devote more than four hours time for manufacturing pellets/gotas. The workers had suffered due to non-supply of clay at the work spot and as such the Tribunal was right and justified in directing the respondents to pay three hours overtime as per day wages calculated on the basis of payment paid to the workers per 8 working hours a day.

11. I have heard learned counsel for the parties and perused the records. It is evident that the petitioner was not supplying clay/sand as required under the terms of the settlement dated 20.1.1981. Even if it is presumed that the petitioner was required to supply clay/sand meaning thereby either clay or sand, workmen were not supplied sand in place of clay, the workmen were supplied earth which is different from clay.

12. The Tribunal has rightly defined the clay and distinguished the same from earth. The finding of facts recorded by the Tribunal is just and

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proper and based on evidence and does not warrant for any interference in this petition.

13. Learned counsel for the petitioner has strongly contended that the Tribunal while exercising its powers under provisions of Section 36-A of the IDA has not only interpreted the terms of the settlement but has granted consequential relief which is beyond purview of its jurisdiction.

14. The Supreme Court in the case of Delhi Cloth and General Mills Company, Ltd. (Supra) has held as under:

> "While it is open to the appropriate Government to refer the dispute or any matter connected therewith for adjudication, the tribunal must confine its adjudication to the points of dispute referred to and maters incidental thereto. In other words the tribunal is not free to enlarge the scope of the dispute referred to it but must confine its attention to the points specifically mentioned and anything which is incidental thereto."

In the present case the Industrial Tribunal has not exceeded its jurisdiction and has confined to the reference made by the Central Government.

It is well settled principle of law that any interpretation of the provision of the statute and terms cannot be done without consequential relief. The power to grant consequential relief is necessary adjunct of the power of interpretation. Accordingly, the Tribunal has not committed any jurisdictional or legal error in granting consequential relief as the same was a part of the reference also.

([2](2005) 8 S.C.C. 242, [3](2004) 3 S.C.C. 553, [4]AIR 1998 S.C. 1990, [5]AIR 1987 S.C. 117)

15. Learned counsel for the petitioner relied on decisions of the Supreme Court in Sanjana M. Wig (Ms) Vs. Hindustan Petroleum Corporation Ltd.[2], ABL International Ltd. and another Vs. Export Credit Guarantee Corporation of India Ltd. and others[3],Mr. Rena Drego Vs. Lalchand Soni etc.[4]and Chandavarkar Sita Ratna Rao Vs. Ashalata S. Gurnam[5].

16. In Mr. Rena Drego's case (supra), the Supreme Court held that : "

"According to us, the High Court has traversed far beyond the limit of its supervisory jurisdiction under Article 227 of the Constitution when the learned single Judge reversed the decree of eviction which was based on findings of facts arrived at by the fact-finding authority upon the evidence on record. It would have been well for the High Court to remind itself that it was not exercising certiorari jurisdiction under Article 226 of the Constitution but a supervisory jurisdiction under Article 227 which obliges the High Court to confine to the scrutiny of records and proceedings of the lower tribunal. By relying on fresh materials which were not before the tribunal, the High Court should not have disturbed findings of facts in exercise of such supervisory jurisdiction. It is now well nigh settled that power under Article 227 is one of judicial superintendence which cannot be used to upset conclusions of facts, however erroneous those may be, unless such conclusions are so perverse or so unreasonable that no Court could ever have reached them. Way back in 1954, a Constitution Bench of this Court, in Waryam Singh Vs. Amarnath, AIR 1954 SC 215, has pointed out that the power of superintendence conferred by Article 227 should be exercised "most sparingly and only in appropriate cases in order to keep the subordinate Courts within the bounds of their authority and not for correcting mere errors."

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17. It is In Chandavarkar Sita Ratna Rao's case (Supra) the Supreme Court held that : " .....As mentioned hereinbefore two questions require consideration – how far and to what extent in exercise of its jurisdiction under Art. 226 or 227 of the Constitution and in this respect regarding power to deal with factual findings, the jurisdiction of the High Court is akin both under Arts. 226 and 227 of the Constitution, can the High Court interfere with the findings of fact ? It is well-settled that the High Court can set aside or ignore the findings of fact of an appropriate Court if there was no evidence to justify such a conclusion and if no reasonable person could possibly have come to the conclusion which the Courts below have come or in other words a finding which was perverse in law. This principle is well settled. In D.N.Banerji V. P.R. Mukharjee, 1953 SCR 302 at p. 305 : (AIR 1953 SC 58 at p. 59), it was laid down by this Court that unless there was any grave miscarriage of justice or flagrant violation of law calling for intervention it was not for the High Court under Arts. 226 and 227 of the Constitution to interfere. If there is evidence on record on which a finding can be arrived at and if the Court has not misdirected itself either on law or on fact, then in exercise of the power under Art. 226 or Art. 227 of the Constitution, the High Court should refrain from interfering with such findings made by the appropriate authorities. We have noted that both the trial Court and the appellate Court after discussing evidence have come to the conclusion that the appellant was a licensee in possession on or before 1st February, 1973. The learned trial Court had expressed doubt about Ex. A but ultimately accepted the position. There was leave and licence agreement. The learned appellate bench of the Court of Small Causes doubted Ex. A and said that it was a concocted stoiy. It is true that there were discrepancies in the evidence of the obstructionist and there was

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inconsistency in the conduct of the judgment-debtor in resisting the suit. Yet all these are for the Court's finding facts and if such fact-finding bodies have acted properly in law and if the findings could not be described as perverse in law in the sense that no reasonable person properly instructed in law could have come to such a finding, such findings should not be interfered with within the exercise of the jurisdiction by the High Court under Arts. 226 and 227 of the Constitution."

18. It is well settled principle of law that the High Court in exercise of its supervisory jurisdiction under Article 227 and jurisdiction under Article 226 of the Constitution of India should refrain itself from setting aside or ignoring the findings of facts if there was sufficient evidence and cogent reasons to justify its conclusion.

19. For the reasons stated above, the petition is dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Thakur